

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1414

Introduced by Senator Wolk

February 21, 2014

An act to amend ~~Section 454.55~~ *Sections 380 and 454.5* of the Public Utilities Code, relating to ~~energy~~ *electricity*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, as amended, Wolk. ~~Energy efficiency~~ *Electricity: resources adequacy requirements*.

(1) The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities in accordance with specified objectives. The act requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements to provide reliable electric service. The act requires the commission to determine the most efficient and equitable means for achieving prescribed objectives.

This bill would include maximizing the economic dispatch of time-variant electrical demand reductions as an objective for the resource adequacy requirements referenced above. The bill would additionally require each load-serving entity to maintain either electrical demand reductions or physical generating capacity adequate to meet its load requirements. The bill would require the commission to determine the most efficient and equitable means to ensure that electrical demand reductions are deployed and economically dispatched.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act~~

~~(2) The act requires the Public Utilities Commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. Existing law requires the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, to identify all potentially achievable cost-effective electricity efficiency savings, and to establish efficiency targets for electrical corporations to achieve pursuant to their to file with the commission a proposed procurement plan. plan with specified information, including, among other things, a procurement process under which the electric corporation may request bids for procurement-related services, a showing that the procurement plan will achieve, among other objectives, the creation or maintenance of a diversified procurement portfolio, and the electric corporation's risk management policy, strategy, and practices.~~

~~This bill would make technical, nonsubstantive revisions to this provision: require the proposed procurement plan to include a competitive procurement process that would also allow the electric corporation to request bids for demand-side reduction services. The bill would require that the plan's diversified procurement portfolio include time-variant demand reductions to minimize purchase of on-peak generation resources. The bill would also require the electrical corporation's risk management policy, strategy, and practices, as specified in the procurement plan, to include specific measures to reflect time-variant wholesale procurement costs in retail electrical rates.~~

~~(3) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.~~

~~This bill would be part of the act and an order or other action of the commission would be required to implement the bill. Because a violation of this bill or an order or other action of the commission implementing those provisions would be a crime, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 380 of the Public Utilities Code is*
2 *amended to read:*

3 380. (a) The commission, in consultation with the Independent
4 System Operator, shall establish resource adequacy requirements
5 for all load-serving entities.

6 (b) In establishing resource adequacy requirements, the
7 commission shall achieve all of the following objectives:

8 (1) Facilitate development of new generating capacity and
9 retention of existing generating capacity that is economic and
10 needed.

11 (2) Equitably allocate the cost of generating capacity and prevent
12 shifting of costs between customer classes.

13 (3) Minimize enforcement requirements and costs.

14 (4) Maximize the ability of community choice aggregators to
15 determine the generation resources used to serve their customers.

16 (5) *Maximize the economic dispatch of time-variant electrical*
17 *demand reductions.*

18 (c) Each load-serving entity shall maintain physical generating
19 capacity *or electrical demand reductions* adequate to meet its load
20 requirements, including, but not limited to, peak demand and
21 planning and operating reserves. The generating capacity *or*
22 *electrical demand reductions* shall be deliverable to locations and
23 at times as may be necessary to ~~provide reliable electric service.~~
24 *maintain electric service system reliability and local area*
25 *reliability.*

26 (d) Each load-serving entity shall, at a minimum, meet the most
27 recent minimum planning reserve and reliability criteria approved
28 by the Board of Trustees of the Western Systems Coordinating
29 Council or the Western Electricity Coordinating Council.

30 (e) The commission shall implement and enforce the resource
31 adequacy requirements established in accordance with this section

1 in a nondiscriminatory manner. Each load-serving entity shall be
2 subject to the same requirements for resource adequacy and the
3 renewables portfolio standard program that are applicable to
4 electrical corporations pursuant to this section, or otherwise
5 required by law, or by order or decision of the commission. The
6 commission shall exercise its enforcement powers to ensure
7 compliance by all load-serving entities.

8 (f) The commission shall require sufficient information,
9 including, but not limited to, anticipated load, actual load, and
10 measures undertaken by a load-serving entity to ensure resource
11 adequacy, to be reported to enable the commission to determine
12 compliance with the resource adequacy requirements established
13 by the commission.

14 (g) An electrical corporation's costs of meeting resource
15 adequacy requirements, including, but not limited to, the costs
16 associated with system reliability and local area reliability, that
17 are determined to be reasonable by the commission, or are
18 otherwise recoverable under a procurement plan approved by the
19 commission pursuant to Section 454.5, shall be fully recoverable
20 from those customers on whose behalf the costs are incurred, as
21 determined by the commission, at the time the commitment to
22 incur the cost is made, on a fully nonbypassable basis, as
23 determined by the commission. The commission shall exclude any
24 amounts authorized to be recovered pursuant to Section 366.2
25 when authorizing the amount of costs to be recovered from
26 customers of a community choice aggregator or from customers
27 that purchase electricity through a direct transaction pursuant to
28 this subdivision.

29 (h) The commission shall determine and authorize the most
30 efficient and equitable means for achieving all of the following:

- 31 (1) Meeting the objectives of this section.
- 32 (2) Ensuring that investment is made in new generating capacity.
- 33 (3) Ensuring that existing generating capacity that is economic
34 is retained.
- 35 (4) Ensuring that the cost of generating capacity is allocated
36 equitably.
- 37 (5) Ensuring that community choice aggregators can determine
38 the generation resources used to serve their customers.
- 39 (6) *Ensuring that electrical demand reductions are deployed*
40 *and economically dispatched.*

1 (i) In making the determination pursuant to subdivision (h), the
2 commission may consider a centralized resource adequacy
3 mechanism among other options.

4 (j) For purposes of this section, “load-serving entity” means an
5 electrical corporation, electric service provider, or community
6 choice aggregator. “Load-serving entity” does not include any of
7 the following:

8 (1) A local publicly owned electric utility.

9 (2) The State Water Resources Development System commonly
10 known as the State Water Project.

11 (3) Customer generation located on the customer’s site or
12 providing electric service through arrangements authorized by
13 Section 218, if the customer generation, or the load it serves, meets
14 one of the following criteria:

15 (A) It takes standby service from the electrical corporation on
16 a commission-approved rate schedule that provides for adequate
17 backup planning and operating reserves for the standby customer
18 class.

19 (B) It is not physically interconnected to the electric transmission
20 or distribution grid, so that, if the customer generation fails, backup
21 electricity is not supplied from the electricity grid.

22 (C) There is physical assurance that the load served by the
23 customer generation will be curtailed concurrently and
24 commensurately with an outage of the customer generation.

25 *SEC. 2. Section 454.5 of the Public Utilities Code is amended*
26 *to read:*

27 454.5. (a) The commission shall specify the allocation of
28 electricity, including quantity, characteristics, and duration of
29 electricity delivery, that the Department of Water Resources shall
30 provide under its power purchase agreements to the customers of
31 each electrical corporation, which shall be reflected in the electrical
32 corporation’s proposed procurement plan. Each electrical
33 corporation shall file a proposed procurement plan with the
34 commission not later than 60 days after the commission specifies
35 the allocation of electricity. The proposed procurement plan shall
36 specify the date that the electrical corporation intends to resume
37 procurement of electricity for its retail customers, consistent with
38 its obligation to serve. After the commission’s adoption of a
39 procurement plan, the commission shall allow not less than 60

1 days before the electrical corporation resumes procurement
2 pursuant to this section.

3 (b) An electrical corporation's proposed procurement plan shall
4 include, but not be limited to, all of the following:

5 (1) An assessment of the price risk associated with the electrical
6 corporation's portfolio, including any utility-retained generation,
7 existing power purchase and exchange contracts, and proposed
8 contracts or purchases under which an electrical corporation will
9 procure electricity, electricity demand reductions, and
10 electricity-related products and the remaining open position to be
11 served by spot market transactions.

12 (2) A definition of each electricity product, electricity-related
13 product, and procurement related financial product, including
14 support and justification for the product type and amount to be
15 procured under the plan.

16 (3) The duration of the plan.

17 (4) The duration, timing, and range of quantities of each product
18 to be procured.

19 (5) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 *services and demand reduction* services, including the format and
22 criteria of that procurement process.

23 (6) An incentive mechanism, if any incentive mechanism is
24 proposed, including the type of transactions to be covered by that
25 mechanism, their respective procurement benchmarks, and other
26 parameters needed to determine the sharing of risks and benefits.

27 (7) The upfront standards and criteria by which the acceptability
28 and eligibility for rate recovery of a proposed procurement
29 transaction will be known by the electrical corporation prior to
30 execution of the transaction. This shall include an expedited
31 approval process for the commission's review of proposed contracts
32 and subsequent approval or rejection thereof. The electrical
33 corporation shall propose alternative procurement choices in the
34 event a contract is rejected.

35 (8) Procedures for updating the procurement plan.

36 (9) A showing that the procurement plan will achieve the
37 following:

38 (A) The electrical corporation, in order to fulfill its unmet
39 resource needs, shall procure resources from eligible renewable
40 energy resources in an amount sufficient to meet its procurement

1 requirements pursuant to the California Renewables Portfolio
2 Standard Program (Article 16 (commencing with Section 399.11)
3 of Chapter 2.3).

4 (B) The electrical corporation shall create or maintain a
5 diversified procurement portfolio consisting of both short-term
6 and long-term electricity and electricity-related and demand
7 reduction—~~products~~. *products, including time-variant demand*
8 *reductions to minimize purchase of on-peak generation resources.*

9 (C) The electrical corporation shall first meet its unmet resource
10 needs through all available energy efficiency and demand reduction
11 resources that are cost effective, reliable, and feasible.

12 (10) The electrical corporation's risk management policy,
13 strategy, and practices, including specific measures of price
14 ~~stability~~. *stability and specific measures to reflect time-variant*
15 *wholesale procurement costs in retail electrical rates.*

16 (11) A plan to achieve appropriate increases in diversity of
17 ownership and diversity of fuel supply of nonutility electrical
18 generation.

19 (12) A mechanism for recovery of reasonable administrative
20 costs related to procurement in the generation component of rates.

21 (c) The commission shall review and accept, modify, or reject
22 each electrical corporation's procurement plan. The commission's
23 review shall consider each electrical corporation's individual
24 procurement situation, and shall give strong consideration to that
25 situation in determining which one or more of the features set forth
26 in this subdivision shall apply to that electrical corporation. A
27 procurement plan approved by the commission shall contain one
28 or more of the following features, provided that the commission
29 may not approve a feature or mechanism for an electrical
30 corporation if it finds that the feature or mechanism would impair
31 the restoration of an electrical corporation's creditworthiness or
32 would lead to a deterioration of an electrical corporation's
33 creditworthiness:

34 (1) A competitive procurement process under which the
35 electrical corporation may request bids for procurement-related
36 services. The commission shall specify the format of that
37 procurement process, as well as criteria to ensure that the auction
38 process is open and adequately subscribed. Any purchases made
39 in compliance with the commission-authorized process shall be
40 recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

(1) Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing

1 accounts, not less than semiannually, and shall adjust rates or order
2 refunds, as necessary, to promptly amortize a balancing account,
3 according to a schedule determined by the commission. Until
4 January 1, 2006, the commission shall ensure that any
5 overcollection or undercollection in the power procurement
6 balancing account does not exceed 5 percent of the electrical
7 corporation's actual recorded generation revenues for the prior
8 calendar year excluding revenues collected for the Department of
9 Water Resources. The commission shall determine the schedule
10 for amortizing the overcollection or undercollection in the
11 balancing account to ensure that the 5 percent threshold is not
12 exceeded. After January 1, 2006, this adjustment shall occur when
13 deemed appropriate by the commission consistent with the
14 objectives of this section.

15 (4) Moderate the price risk associated with serving its retail
16 customers, including the price risk embedded in its long-term
17 supply contracts, by authorizing an electrical corporation to enter
18 into financial and other electricity-related product contracts.

19 (5) Provide for just and reasonable rates, with an appropriate
20 balancing of price stability and price level in the electrical
21 corporation's procurement plan.

22 (e) The commission shall provide for the periodic review and
23 prospective modification of an electrical corporation's procurement
24 plan.

25 (f) The commission may engage an independent consultant or
26 advisory service to evaluate risk management and strategy. The
27 reasonable costs of any consultant or advisory service is a
28 reimbursable expense and eligible for funding pursuant to Section
29 631.

30 (g) The commission shall adopt appropriate procedures to ensure
31 the confidentiality of any market sensitive information submitted
32 in an electrical corporation's proposed procurement plan or
33 resulting from or related to its approved procurement plan,
34 including, but not limited to, proposed or executed power purchase
35 agreements, data request responses, or consultant reports, or any
36 combination, provided that the Office of Ratepayer Advocates and
37 other consumer groups that are nonmarket participants shall be
38 provided access to this information under confidentiality
39 procedures authorized by the commission.

(h) Nothing in this section alters, modifies, or amends the commission's oversight of affiliate transactions under its rules and decisions or the commission's existing authority to investigate and penalize an electrical corporation's alleged fraudulent activities, or to disallow costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds. Nothing in this section expands, modifies, or limits the State Energy Resources Conservation and Development Commission's existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

(i) An electrical corporation that serves less than 500,000 electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

1 ~~SECTION 1. Section 454.55 of the Public Utilities Code is~~
2 ~~amended to read:~~
3 ~~454.55. The commission, in consultation with the Energy~~
4 ~~Commission, shall identify all potentially achievable cost-effective~~
5 ~~electricity efficiency savings and establish efficiency targets for~~
6 ~~an electrical corporation to achieve pursuant to Section 454.5.~~

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